EXHIBIT 1
DATE 3/14/13
SB 117

College Savings Bank
Member FDIC

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February 21, 2013

Representative Duane Ankney and Members of the House Appropriations Committee

Re: Senate Bill 0117 (Parity) HB to be assigned

Dear Chairman Ankney and Committee Members:

College Savings Bank serves as the program manager for the Montana Family Education Savings Program (MFESP), the Montana section 529 program. College Savings Bank, a leader in the college savings market since 1987, has been leading and guiding your state program for 15 years. We are writing to express our concerns with SB0117, which would allow Montana residents to deduct contributions to out-of-state section 529 plans when determining their income subject to Montana tax. (Montanans can now deduct up to $3,000 contributions per taxpayer to MFESP plans each year.)

The MFESP consists of two plans, the MFESP Bank Plan and the MFESP Investment Plan. Each plan has multiple components that collectively give Montanans a wide range of tax-favored college savings options.

Under the MFESP Bank Plan, Montana residents can save for college through a variety of FDIC insured instruments. CollegeSure®CDs have an annual percentage yield tied to the rate of college inflation. The InvestorSure®CD is equity indexed and designed to permit savers to benefit from market highs and protect against market lows. The MFESP Bank Plan also offers fixed rates CDs with 1-year and 3-year maturity options and a new Honors™ Savings Account, which is a high yield savings account with no fees. All of the MFESP Bank Plan options are insured by the FDIC. That gives Montanans comfort that every penny they save will be available to pay for their child's future college education expenses and will never be at risk. The MFESP Bank Plan has served the state well; no parent or grandparent who has invested in the MFESP Bank Plan has lost or subjected his or her savings to market risk.

Under the MFESP Investment Plan, Montana college savers can select from a variety of investment portfolios offered by Vanguard, including the Vanguard Life Strategy Growth Portfolio, the Vanguard Life Strategy Moderate Growth Portfolio, the Vanguard Life Strategy Conservative Growth Portfolio, the Vanguard Total Stock Market Index Portfolio and the Vanguard Total International Stock Index Portfolio.

Before being offered under the MFESP, an investment option must be vetted with and approved by the Montana Board of Regents of Higher Education (BOR). The BOR makes sure that investment options are suitable for Montana college savers. The BOR also checks the reasonableness of the fees charged with respect to the various investment options. The BOR has the authority to do due diligence reviews on College Savings Bank as program manager and the investment options under the program. A visit was conducted by the MFESP as recently as November 2012 for this purpose.

As the MFESP program manager and long-term partner to the State of Montana, we feel compelled to comment on the tax parity legislation introduced in the Montana State Legislature. The underlying premise of the legislation is that allowing Montana residents to purchase plans from other states and receive the Montana state tax deduction will provide a wider range of college savings choices. For reasons discussed below, we do not believe that the legislation is in the best interests of the residents of Montana who seek to save for college or in the best interests of the government of the state.

Sufficient Choice Now

As discussed above, the MFESP provides college savers with a wide variety of choices ranging from certificates of deposits with fixed rates of interest to equity portfolios designed to achieve growth. Expanding choices may not be helpful. Montanans have a continuing problem with deciding between the two plans and various investment options available now. We provide call centers for their benefit and we receive calls throughout the year to explain the choices. If the number of choices increases and savers become more confused with options, it becomes more likely that your residents will be pushed into particular plans by brokers who focus more on commissions they receive than on what is best for the client.

State Role in Protecting Investors

Many section 529 savers are low or middle income savers who are not sophisticated investors. One of the benefits of section 529 programs is that they allow the state sponsor to vet potential programs and determine which ones are best for their residents. The BOR takes this responsibility seriously and Montana residents benefit from having choice of well-vetted options.

Interests in section 529 plans are municipal securities that are regulated primarily by the state issuing them. Some states do a better job regulating than others. Stories abound about state plans that are in financial trouble or for which excessive fees are charged. Investors who invest in plans sponsored by other states may be vulnerable to poor oversight in those states. By limiting the Montana deduction to MFESP Plans, current law encourages residents to save through plans that the BOR has vetted. Without strong state plans, Montanans would be vulnerable to the higher fees that many state section 529 plans charge out-of-state participants than they charge in-state participants.

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When the in-state programs have a competitive advantage, the BOR has more leverage in negotiating favorable terms for residents of the state. Favorable terms include lower fees. If the BOR loses the leverage, Montana residents, despite having greater choice, may actually end up with fewer low-fee options or may have to look far and wide to find low-fee options from other states.

Encouraging Middle Income and Lower Income Families to Save

We travel the country into states that have tax parity and do not have tax parity; one thing is clear, every state (including Montana) struggles with how to engage more middle and lower income families in saving for college. In Montana, we have had hours of discussion on how to accomplish this initiative and have a strong plan for 2013-2014. While working with the MFESP, one of our key functions has been and continues to be to educate residents on the value of higher education and options for saving their hard earned money to fund the ever increasing cost of postsecondary education.

Promoting savings in Montana costs money. One of the reasons that College Savings Bank is willing to spend money on Montana-focused education programs is that the plans we manage have a competitive advantage in Montana due to the deduction being limited to Montana plans. That means that we can expect a reasonable yield from our advertising. With tax parity, the Bank would likely continue to advertise, but it would have to adjust its advertising to reflect a lower expected yield.

The competitive advantage also gives the BOR the ability to require that its program manager spend money on marketing and education in Montana. It seems safe to conclude that if the competitive advantage is removed, no program manager would be willing to devote the time, attention and money to the MFESP that College Savings Bank now devotes. The residents of Montana would lose by being deprived of education on college saving.

College Savings Bank spent over $356,900 last year marketing the MFESP plans and college savings in the State of Montana.

Loss of Direct and Indirect Revenue to the State

In 2012 College Savings Bank paid $100,000 to the state as a fee for serving as program manager. In addition, College Savings Bank paid for many of the administrative costs of operating the MFESP. The fee helped the State pay its administrative costs associated with the program. If a program manager does not have a significant competitive advantage in Montana, it is unlikely that the manager would pay this level of fee to the state or cover as many of the administrative costs as College Savings Bank now covers.

Each month a college savings award of $1,000 is awarded to a Montana resident. The recipient is selected from a pool of entries that consist of new account owners from both plans during the month and entries made on the College Savings Bank and MFESP websites. This plan is funded by the fees paid to MFESP by College Savings Bank.

The expenditure on marketing shown above ($356,900) includes, among other things, sponsoring the University of Montana and Montana State University football teams by putting information about college savings in the game programs, on radio broadcasts of the games and on the colleges' web sites. The Bank also sponsored PBS shows on Montana television stations and advertised in local newspapers 41 times. As noted above, with tax parity, the Bank would likely continue to advertise, but at lower levels.

Jeopardizing Special Programs

As program managers and providers of investment options under the MFESP are willing to commit to less because they would be operating in Montana without a significant competitive advantage, programs such as the College Savings Award are jeopardized.

Logic for Limiting Tax Benefit to MFESP Participants

MSRB, which is one of the agencies that regulate section 529 college savings programs, views the interests in section 529 plans as municipal securities. As municipal securities, the plans should be treated like municipal bonds. Most states require that residents include in income interest earned on bonds issued by issuers located in other states, but allow interest income on bonds issued by in-state issuers to be excluded from income. It would be consistent with this approach to continue to limit Montana's $3,000 income exclusion for contributions to section 529 plans to state sponsored section 529 plans.

Lack of Reciprocity

If Montana were to adopt legislation that treated out-of-state section 529 plans as favorably as its own for tax purposes, the state should expect that other states would provide reciprocal benefits and allow their residents the same tax benefits for out-of-state plans as they provide for in-state plans. Only five states with deductions for contributions to section 529 plans provide parity for out-of-state plans.

Tax Reporting

The Montana Department of Revenue benefits from single source reporting that it receives from the program manager on contributions by Montana residents to MFESP plans. This enables the Department of Revenue to match contributions with claims for deductions and it probably promotes honesty by taxpayers who know that the Department of Revenue can easily verify their tax deductions. If Montana residents are permitted to deduct contributions to other states' plans, the Department of Revenue will have no easy way of verifying contributions.

Perhaps more importantly, Montana tax law requires that deductions be recaptured if contributions are removed from the account less than 36 months after the account is opened or if the withdrawal is a nonqualified withdrawal (generally, one not used to pay qualified higher education expenses). The MFESP program manager reports the withdrawals that are likely to result in recapture to the Department of Revenue. The Department of Revenue may require withholding on an account that was at one time owned by a Montana resident but is no longer owned by a Montana resident. The Department of Revenue is very unlikely to obtain such reporting from out-of-state plans and will not be able to require withholding by out-of-state plans. This will lead to less compliance with the tax law and reduced revenue for the state.

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College Savings Bank is very pleased to have been a program manager for the MFESP for 15 years. It has been a successful program for which the legislature, the Board of Regents and the residents of Montana should be proud. We remain committed to the State of Montana and would like the program to continue to be successful. However, we fear that if the program loses its competitive advantage within the state, the BOR and the program manager will be able devote fewer resources to the MFESP. The program will be weakened and the residents of Montana will learn less about the importance of saving for college.

Although the College Savings Bank is the program manager for MFESP, we do not speak for the MFESP, the BOR or Montana University Systems. The views expressed in this letter are our own.

Thank you again for the opportunity to provide this information. College Savings Bank is prepared and pleased to provide the committee with further information or documentation.

In conclusion, I respectfully encourage the House Appropriation Committee to consider all the facts in this document and reject the house bill that is now known as SB0117.

Very truly yours,

Gilbert S. Johnson
Chairman, President and CEO
College Savings Bank